

**Bernhart's Dam & Park  
Joint Meeting  
City-County-Muhlenberg Township-EPA-Congressional Offices  
Wednesday, May 30, 2007  
Council Chambers**

**Attending:** J. Waltman, Vice President City Council; D. Sterner, City Council; M. Baez, City Council; M. Goodman-Hinnershitz, City Council; S. Marmarou, City Council; T. McMahon, Mayor City of Reading; L. Kelleher, City Clerk; C. Kanezo, Deputy City Clerk; L. Churchill, Managing Director; G. Hand, Chief of Staff to the Mayor; C. Jones, Public Works; D. Hoag, Public Works; J. Meeks, Berks County Solid Waste Authority; A. Mittleman, Sen. Casey's office; C. Hafer, Berks EAC; J. Schwank, Commissioner; M. Scott, Commissioner; B. Evans, Sen. O'Pake's office; D. Didyoung, Muhlenberg Township; S. Landes, Muhlenberg Township; N. Deluca, Muhlenberg Township; R. Weinoffer, Cong. Gerlach's office; J. Cohen, Blank Rome; T. Smith, Cong. Tim Holden's office; A. Green, Senator Specter's office; G. Swavely, Solicitor Muhlenberg Township; J. Schafer, USEPA; Khai Dao, USEPA; P. Gotthold, USEPA.

Mr. Smith and Mr. Waltman thanked all for taking the time to attend an important meeting concerning the future of a resource as valuable as Bernhart's Park. Mr. Smith invited the representatives of the Environmental Protection Agency (EPA) to review the facts of the situation.

Mr. Gotthold explained how lead remediation is a very complicated, as the nature of lead contamination does not allow for uniform remediation. [The EPA generally directs remediation between 500 and 2000 parts per million.](#) Mr. Gotthold stated EPA must develop site specific remediation models; these models must take into consideration dozens of locally specific variables and therefore are very difficult to generate.

**[EPA Clarification:](#)**

*Initially, EPA uses 400 parts per million (ppm) of lead in soil as a screening value to establish the boundaries of the study area. EPA then uses the Integrated Exposure Uptake Biokinetic Model for Lead in Children (IEUBK model) to determine appropriate residential cleanups between 400 and 1200 ppm for lead in soil. Residential properties above 1200 ppm of lead in soil have already been remediated.*

Mr. Gotthold promised the group that Exide Inc. and the EPA will conclude

negotiations by June 18<sup>th</sup> at the latest and will reach agreement on the necessary level of cleanup for 185 of the 480 affected properties. He explained that Exide and the EPA have been having a technical disagreement about the model results and the level of remediation that needs to be applied. Mr. Hafer inquired why the level of remediation is being discussed, as the consent order requires remediation to 400 parts per million.

***EPA Clarification:***

*EPA clarified Mr. Hafer's inquiry that the Consent Order does not specifically require a remediation of 400 parts per million (ppm). The 400 ppm level was established as the screening level for the study area. The Consent Order directs Exide to follow the IEUBK Model to determine a site-specific cleanup level.*

Mr. Dao summarized the relevant history and provided copies of his summary to all those in attendance. Important dates include:

<b><u>Date</u></b>	<b><u>Activity</u></b>
03/01	Effective date of EPA Consent Order.
04/01-09/01	Soil samples taken from residential properties.
11/01	Public meeting, results from the study were presented.
04/02	Exide Inc. filed for bankruptcy.
05/02-11/02	Residential cleanup for properties with soil lead concentrations greater than 1,200ppm.
8/02-10/02	Risk Assessment sampling.
1/04-Present	EPA review of Risk Assessment Report.

Mr. Dao stated that the City has consistently disagreed with the EPA's proposed remediation levels for the Bernhart's Park property. According to Mr. Dao, the City requested further information from a risk assessment study. Mr. Gotthold stressed that the risk study was nearing completion; data from the study would not be released until EPA had an opportunity to conduct an internal review.

Mr. Hafer noted his repeated requests for the data collected by the EPA. Mr. Gotthold replied that the data is confidential as it contains the names of the individuals tested. Mr. Scott countered that names associated with the study data could be redacted and blood count levels could be released. Mr. Gotthold replied that this information is considered a draft that is not releasable; however, he will discuss the County's request with the EPA's legal counsel. Mr. Hafer questioned the validity of basing the risk assessment on source data gathered in 2001. Mr. Gotthold remarked that as lead is a stable element the levels of contamination would not vary over time.

Mr. Hafer and Ms. Goodman-Hinnershitz stressed the need for remediation at Bernhart's Dam. This park property has been closed for approximately 10 years. They stated that the use of signs to close off specific areas of the park is ineffective, as people, particularly children, ignore signs and enter the closed areas and trails. Mr. Gotthold noted the difficulty of remediating areas with steep slopes and heavy tree cover. Ms. Goodman-Hinnershitz countered that closing off certain areas of the park with signs has proven ineffective. She reported visiting the park and seeing people walking in restricted areas and fishing in the lake. She stated that as it is virtually impossible to close off certain areas of a public park, the EPA and the City cannot prevent the park's visitors from entering unremediated areas. She added that since its closure, the park has fallen into a state of disrepair. She stressed the need for Exide to both remediate and make the necessary repairs to return the park back to its prior condition.

Mr. Hafer inquired if EPA would compel Exide to honor the terms of the original consent order, entered into before the company declared bankruptcy. Mr. Gotthold replied that EPA and Exide are negotiating terms and a final documented work plan that will be attached to the consent order no later than September 1, 2007.

Ms. Goodman-Hinnershitz and Mr. Waltman stated the City, as owner of Bernhart's Park, is interested in ensuring that the park will be properly remediated. Mr. Waltman stressed that City Council, the EPA and Exide all have an obligation to the citizens of Reading and Berks County to restore the park.

Mr. Doa explained that when establishing levels of remediation, the EPA considers exposure through ingestion to a 6 year old child. Again Mr. Hafer inquired why the EPA is negotiating the level of remediation as the 400 parts per million is listed in the consent order.

***EPA Clarification:***

*EPA project manager is Khai Dao*

Ms. Hoag asked if EPA and the Pennsylvania Department of Environmental Protection (DEP) communicate with each other. Ms. Hoag pointed out that DEP has asked the City to drain Bernhart's Dam to examine the condition of the dam breast. Ms. Schwank explained that the DEP is no longer supportive of repairing damaged dams, citing the example of Angelica Park. Ms. Hoag stated if the DEP determines that the dam should be taken down additional contaminated areas will be more easily accessed by visitors to the Park. Mr. Gotthold admitted that DEP and EPA do not regularly communicate and that the EPA was unaware of

the DEP's disposition on the dams in Pennsylvania.

***EPA Clarification:***

*EPA communicates regularly with our PADEP partners in the Environmental Cleanup Program regarding the Exide Investigation. However, Mr. Gotthold stated that EPA does not normally communicate with the PADEP Dam program unless the program is associated with the investigation.*

Mr. Didyoung stated that due to the fluidity of zoning, land and building use is constantly changing. He noted the prevalence of adaptive reuse for older buildings. He stated that properties not originally accessible can now be tested; because of this EPA should revisit previously restricted properties. Mr. Dao promised to discuss the matter with Mr. Didyoung further.

Mr. Smith suggested EPA provide an overview of forthcoming activities. *Mr. Gotthold stated EPA will present Exide Inc. with an order by June 18<sup>th</sup>. Exide will then have 60 days to develop a work plan, by September 1 Exide will be required to begin honoring the terms of the work plan. Mayor McMahon asked if the work plan would include time lines and remediation goals.*

***EPA Clarification:***

*EPA will present to Exide its final decision on the Exide Child Lead Risk Assessment and not the Consent Order by June 18<sup>th</sup>. The Consent Order was signed by EPA and Exide in March 2001.*

Mr. Gotthold stated the work plan would be very specific and include an outline of properties in need of remediation, the method of remediation and a timeline for remediation. Ms. Hoag asked if the City of Reading, as a property owner, would have the opportunity to provide comment. Mr. Gotthold indicated public comment would not be sought; however, the work plan would be presented for public review. He stated the City may submit comments; however, he placed reservations on the EPA's willingness to address the City's comments.

Mr. Scott and Mr. Hafer inquired if Exide can appeal the terms of the work order and consent order to the court system. The EPA representatives replied that they were unsure if the consent order and work order are appealable. *They also noted that Exide, to date, has not been fined; however, Exide can be fined after the consent order and work plan is approved.*

***EPA Clarification:***

*EPA can fine Exide if EPA determines that Exide are in violation with the Consent Order and work plan.*

Mr. Waltman concluded the meeting by stating that Exide is a company of considerable resources and should be held accountable for past actions. Mr. Waltman made it clear that EPA must protect the interests of the City of Reading, Muhlenberg Township and Berks County.

All agreed to hold a follow up meeting on Thursday, September 20<sup>th</sup>, at 12:00p.m. in Council Chambers

*Respectfully submitted by  
Linda A. Kelleher, City Clerk  
Christopher G. Kanezo, Deputy City Clerk*